

TENNESSEE

Wastewater

7638 River Road Pike  
Nashville, TN 37209  
(615) 356-2880

RECEIVED

2005 APR 18 PM 1:36

T.R.A. DOCKET ROOM

April 18, 2005

Mrs. Darlene Standley, Chief  
Utilities Division  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

RE: Tennessee Wastewater Systems, Inc.'s Petition to Amend Certificate of  
Public Convenience and Necessity to Provide Wastewater Utility Services  
(Docket No. 05-00030 – Trillium Cove Condominiums)

Dear Mrs. Standley:

Tennessee Wastewater Systems, Inc. provides the following information per your  
request dated April 7, 2005.

1. The estimated amount of contributed capital to Tennessee Wastewater  
Systems once the system is transferred to TWS

\$130,000

2. Will the system being constructed for Trillium Cove Condominiums be  
capable of serving more than the 25 commercial customers and 10  
residential customers as noted in this Docket? Will the system be  
designed for expansion?

The system will be designed to only serve the 25 commercial  
customers and 10 residential customers. All of our systems are  
capable of expansion

3. An estimate of the maximum capacity of the system being installed in  
the area requested.

5,000 Gallons Per Day

4. A "Letter of Intent" from the developer or other party responsible for  
construction of the system, indicating the intention to contract with  
TWS for the operation of the system, once construction is complete.

See Attached Contract

5. An estimated time frame for construction of the system, including the  
estimated date construction will begin and the date it is estimated to be  
complete.

After approvable is received, it is expected that it will take 90 days to  
complete.

If you have any further questions, or need additional information, please feel free  
to contact me.

Sincerely,



Charles Pickney, Jr.  
President  
Tennessee Wastewater Systems, Inc.

5,000 Gallons Per Day

4. A "Letter of Intent" from the developer or other party responsible for construction of the system, indicating the intention to contract with TWS for the operation of the system, once construction is complete.

See Attached Contract

5. An estimated time frame for construction of the system, including the estimated date construction will begin and the date it is estimated to be complete.

After approvable is received, it is expected that it will take 90 days to complete.

If you have any further questions, or need additional information, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles Pickney, Jr.", written in black ink.

Charles Pickney, Jr.

President

Tennessee Wastewater Systems, Inc.

**SEWERAGE SYSTEM MAINTENANCE AND MANAGEMENT CONTRACT****TOWNSEND, BLOUNT COUNTY****TRILLIUM COVE SUBDIVISIONS**

This sewerage system maintenance and management contract, made and entered as of this 27<sup>th</sup> day of January 2005, by and between, Tennessee Wastewater Systems, Inc., a Tennessee corporation, herein referred to as "Tennessee Wastewater" and Earthbound, L.P., by Trillium Cove Inc., General Partner, both Tennessee companies, herein referred to as "Owner":

**WHEREAS**, Owner is developing a tract of real property located in Townsend, Blount County, Tennessee and is generally referred to herein as the Trillium Commercial Cove Subdivision and the Trillium Residential Cove Subdivision project; and

**WHEREAS**, Owner requires a public utility to own and manage a sewage treatment, collection, and disposal system for the Trillium Commercial Cove Subdivision and the Trillium Residential Cove Subdivision project, such that the sewer system can be constructed and operated to allow for the orderly development and use of the property, and

**WHEREAS**, Tennessee Wastewater has the capability to own, manage, and maintain the sewerage treatment, collection, and disposal system for the Trillium Commercial Cove Subdivision and the Trillium Residential Cove Subdivision project, the parties hereto have entered into the following agreements:

**WITNESSETH**

1. Owner is developing a tract of real property in Townsend, Blount County, Tennessee and such property is generally referred to herein as the Trillium Commercial Cove

Blount County - Trillium Cove Subdivisions

Page 2 of 7

Sewerage System Ownership, Management, and Operation Agreement

January 24, 2005

Subdivision and the Trillium Residential Cove Subdivision development. The development project has been mapped, platted, and surveyed. The plat for Trillium Commercial Cove Subdivision and the Trillium Residential Cove Subdivision development as recorded in the Register's Office for Blount County is attached hereto as Exhibit 1.

2. Tennessee Wastewater hereby agrees to own, operate, maintain, and manage the sewerage system for the property identified in Exhibit 1 and Owner agrees for Tennessee Wastewater to have exclusive responsibility for the ownership, operation, maintenance, and management of the sewerage system as installed and as may be expanded from time to time.

3. Owner agrees to provide Tennessee Wastewater with copies of all plans, specifications, drawings, and other documentation accompanying the design and installation and any expansions of the sewerage system. Tennessee Wastewater shall secure all local, state, and federal permits, licenses, or other approval necessary for the operation of a sewerage system on the property identified as Exhibit 1.

4. Owner agrees that, provided that any building unit is provided public water supply through an individually metered connection to the Tuckaleechee water utility district distribution system, Owner will require purchaser of said building unit to install a lockable shut off valve on the property owner's side of the Tuckaleechee water meter on the water supply line to the building. This valve is for the exclusive use of Tennessee Wastewater in accordance with its sewer service agreement with the unit owner and is to be used to shut off water supply to the unit in the event that the monthly sewer fee is not paid.

5. To allow for maintenance and management of the sewerage system, Owner shall provide Tennessee Wastewater an all weather access road, the necessary power lines, and power drop to the sewage treatment site and to the lift stations serving the commercial building units.

Blount County - Trillium Cove Subdivisions  
Sewerage System Ownership, Management, and Operation Agreement

Page 3 of 7  
January 24, 2005

Developer shall provide a written, platted, and recorded, five (5) foot sewerage easement on each side of the center line of all sewers installed in the development other than those sewers and those connections which are located along the public right of way.

6. Developer agrees to provide electrical power to the commercial building units lift stations and to require that the future power costs to operate those stations be paid by the property owner association.

7. Tennessee Wastewater shall approve all plans and drawings accompanying the sewerage system and any additions or expansions to the system as installed or associated with the system. The actual construction and installation of the sewerage system and any expansions to same shall be subject to the final approval and final inspection of Tennessee Wastewater. Tennessee Wastewater shall require a one (1) year warranty from the contractor installing the sewerage system, such that the contractor shall warrant that, for the first year after the initial system is accepted by Tennessee Wastewater, the contractor shall immediately repair, or cause to be repaired, all breaks, leaks, or defects of any type in the installation, construction, or materials included in the sewerage system. After the expiration of the one (1) year period, Tennessee Wastewater shall be responsible for the repair of all breaks, leaks, or defects of any type in the installation, construction, or materials used in the sewerage system.

8. Owner agrees that Utility Capacity Corporation, Inc. shall hold and manage any excess sewerage system capacity. Once the sewerage system, or necessary sections thereof, is installed, completed, and functioning, those elements of the system shall be turned over or dedicated to Tennessee Wastewater Systems, Inc. for ownership, operation, management, and

Blount County - Trillium Cove Subdivisions  
Sewerage System Ownership, Management, and Operation Agreement

Page 4 of 7  
January 24, 2005

maintenance of the sewerage system operations. Prior to the delivery or the turn over of the ownership, operation, maintenance, and management of the system to Tennessee Wastewater and the acceptance of same by Tennessee Wastewater, Tennessee Wastewater shall inspect and approve the initial system as installed and any expansions of such system as it may be expanded from time to time.

9. Owner hereby grants to Tennessee Wastewater an exclusive right to operate all of the sewerage collection, treatment, and disposal systems and the land on which said systems are located in the development shown on Exhibit 1 and Owner hereby conveys to Tennessee Wastewater said exclusive right to operate all of said systems and lands therein without the necessity of any further contract, deed, conveyance, covenant, or easement, for a period of 99 years or so long as said property is used and operated for waste water collection, treatment, and disposal, whichever shall first occur. Tennessee Wastewater shall have the right to renew at any time said exclusive rights to operate all of the sewerage collection, treatment, and disposal systems, and the land on which said systems are located in the Trillium Commercial Cove Subdivision and the Trillium Residential Cove Subdivision development shown on Exhibit 1. Owner shall provide Tennessee Wastewater a written, platted, and recorded perpetual easement for the sewage treatment and drip irrigation site.

10. Upon installation, testing, approval, and acceptance for use by Tennessee Wastewater, all sewerage system improvements up to the property line of any lot shall become and remain the sole property of Tennessee Wastewater without the necessity of a formal conveyance from the Owner to Tennessee Wastewater. Owner does hereby warrant that title to the same shall be free and unencumbered. Notwithstanding said provision as to title, Owner further agrees that it will execute, acknowledge, and deliver a deed formally conveying title to

Blount County - Trillium Cove Subdivisions  
Sewerage System Ownership, Management, and Operation Agreement

Page 5 of 7  
January 24, 2005

said sewerage system improvements to Tennessee Wastewater upon demand by Tennessee Wastewater.

11. Owner agrees to execute, acknowledge, and deliver to Tennessee Wastewater any and all easements that may be necessary or appropriate as determined by Tennessee Wastewater for the construction, operation, and maintenance of Tennessee Wastewater's sewerage system, or portion thereof.

12. Owner warrants that, should its development include restrictive covenants, said covenants shall include paragraphs or other disclosures regarding the sewerage system as may be drafted by Tennessee Wastewater.

13. Tennessee Wastewater agrees and covenants that Owner shall have access to 5,000 gpd of the sewerage system capacity based on average daily flows using monthly daily flow data. Owner agrees that no changes can be made in the volume or characteristics of the waste flow discharged to Tennessee Wastewater without prior approval of Tennessee Wastewater.

14. Owner agrees to notify all building unit purchasers that they will be required to pay Tennessee Wastewater a monthly sewer service charge at rates established by tariff approved by the Tennessee Regulatory Authority, the state's public service commission, as may be published, amended, or established from time to time.

15. This contract is not assignable to or for the benefit of any other person or entity without Tennessee Wastewater's prior written consent. The Owner commitments and covenants contained in Paragraph 4 shall survive the termination of this contract as to Owner. Nothing in this agreement shall be pledged, mortgaged, hypothecated, or utilized as collateral for any obligations of Owner to any third parties.

Blount County - Trillium Cove Subdivisions  
Sewerage System Ownership, Management, and Operation Agreement

Page 6 of 7  
January 24, 2005

16. This agreement shall be governed and interpreted under the laws of the State of Tennessee without regard to any other choice of law statutes or procedures.

17. Should any part of this agreement be found or held invalid or unenforceable by any court or government agency, regulatory body, or utility regulatory commission, such invalidity or unenforceability shall not affect the remainder of this agreement which shall survive and be construed as if such invalidity or unenforceability part had not been contained therein.

18. This agreement cannot be amended except by a written agreement approved and signed by the authorized agents of Owner, Tenant, and Tennessee Wastewater.

19. Owner; Utility Capacity Corporation, Inc.; and Tennessee Wastewater Systems, Inc. and their respective officers and directors of each company are not agents, representatives, or employees of each other company and no party shall have the power to obligate or bind any other party in any manner except as otherwise expressly provided in this agreement. Nothing in this agreement shall operate or be construed to establish a partnership, limited partnership, or joint venture by and between Earthbound, L.P., by Trillium Cove Inc., General Partner; Tennessee Wastewater Systems, Inc.; Utility Capacity Corporation, Inc.; or any realtor or other entity authorized by the Owner in connection with the development of the Trillium Commercial Cove Subdivision and the Trillium Residential Cove Subdivision project.

20. None of the parties shall be in breach of this agreement by reason of its delay in performance or for failure to perform any of its obligations herein if such delay or failure is cause in whole or in part by strikes or other labor disputes, acts of God or the public enemy, riots, incendiaries, interference by civil or military authorities, compliance with governmental laws, rules, regulations, delays in transit or delivery, or subsequent events which are beyond its reasonable control or without its fault or negligence.



Blount County - Trillium Cove Subdivisions  
Sewerage System Ownership, Management, and Operation Agreement

Page 7 of 7  
January 24, 2005

FOR OWNER:

EARTHBOUND, L.P., by TRILLIUM  
COVE INC., GENERAL PARTNER

*Earthbound LP by  
Trillium Cove, Inc. by  
Richard Olson - President*

Richard Olson, President  
Trillium Cove, Inc.

FOR TENNESSEE WASTEWATER  
SYSTEMS, INC.:

*Michael Hines*

Michael Hines, Vice President  
Tennessee Wastewater Systems, Inc.